

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION AT MEMPHIS**

MONTERRIOS HARRIS,

Plaintiff,

v.

**CITY OF MEMPHIS, EMMITT
MARTIN III, DESMOND MILLS, JR.,
JUSTIN SMITH, DEMETRIUS HALEY,
TADARRIUS BEAN, and JOHN DOES 1-
4, INDIVIDUALLY, AND IN THEIR
OFFICIAL CAPACITIES AS CITY OF
MEMPHIS LAW ENFORCEMENT
OFFICERS,**

Defendants.

Case No.: 2:23-cv-2058-JTF-tmp

Plaintiff Monterrios Harris (“Plaintiff”) and Defendant City of Memphis (“the City”), by and through undersigned counsel, respectfully submit this Rule 26(f) Report and Proposed Discovery Plan.

Pursuant to Fed. R. Civ. P. 26(f), counsel for the City, Jennie V. Silk and Freeman B. Foster, and counsel for Plaintiff, Andrew Horvath, conferred on April 13, 2023, by video conference.¹ Plaintiff and the City jointly file this Report of Parties’ Planning Meeting and Proposed Discovery Plan:

¹ Counsel for Defendant Tadarrius Bean indicated that he would be moving to substitute counsel, and he did not participate in the Planning Meeting. As of the date of this filing, Defendants Emmitt Martin III, Desmond Mills, Jr., Justin Smith, and Demetrius Haley have not retained counsel and, therefore, did not participate in the Planning Meeting.

2. Initial Disclosures. May 10, 2023
3. Discovery Plan. The parties propose the following discovery plan:
 - a. Discovery will be needed regarding Plaintiff's claims and the City's defenses.
 - b. All discovery shall be commenced in time to be completed in accordance with the Scheduling Order entered in this civil action.
 - c. The proposed deadline for completing all discovery is January 12, 2024.
 - d. In accordance with Federal Rule of Civil Procedure Rule 33, unless stipulated by the parties or directed by the Court, Interrogatories will be limited to a maximum of twenty-five (25) Interrogatories, including all discrete subparts, by each Party to any other Party. Leave to serve additional Interrogatories may be granted, upon timely application to the Court, to the extent consistent with Rule 26(b)(1) and (2). Answers and objections shall be served within thirty (30) days after service of the Interrogatories, unless a shorter or longer time is directed by the Court or is agreed to in writing by the parties subject to Federal Rule of Civil Procedure 29.
 - e. Requests for Admissions and the responses thereto shall be governed by and subject to the provisions of Federal Rule of Civil Procedure 36.
 - f. The parties have agreed to the entry of an order regarding claims of privilege or of protection as trial-preparation material asserted after production, as follows: The party withholding any documents under a claim of privilege or protection will provide a privilege log sufficiently describing the document and the alleged privilege or protection so as to afford other parties the

opportunity to move to compel production of the alleged privileged or protected materials.

- g. There is no maximum number of requests for production that a party may serve. Responses to requests for production are due 30 days from service, unless the parties agree otherwise in a specific instance. A party will not unreasonably refuse a reasonable request for an extension of time to respond to requests for production.
- h. The duration of any individual witness deposition shall be governed by Rule 30(d) of the Federal Rules of Civil Procedure.
- i. Reports of retained experts shall be served in accordance with the Scheduling Order entered in this case.
- j. Plaintiff will disclose his Rule 26 expert information, if any, by November 17, 2023. The City will disclose its Rule 26 expert information, if any, by December 15, 2023.
- k. Each party will supplement discovery responses in a timely manner as required by Rule 26(e). Final supplementation is due by the proposed deadline for completing all discovery, January 12, 2024.

4. Other Items:

- a. Initial Motions to Dismiss. Any such motions should be filed by the deadline for doing so by the Scheduling Order (ECF No. 31) filed in this civil action.
- b. Joinder of Additional Parties and Amendment to Pleadings. Joinder of additional parties and amendment of pleadings shall be made by the deadlines established by the Scheduling Order entered in this civil action.

- c. Final Dispositive Motions. All potentially dispositive motions shall be filed by the deadline for such filing established by the Scheduling Order entered in this civil action.
- d. Final Witness & Exhibit Lists. The final list of witnesses and all documents or other exhibits as required by Federal Rule of Civil Procedure 26(a)(3) shall be provided by the deadline for such disclosures as established by the Scheduling Order entered in this civil action.
- e. Prospects for Settlement. Since no discovery in this matter has ensued, the parties agree that settlement discussions are premature. However, as indicated in the joint proposed Scheduling Order, the parties agree to engage in court-annexed mediation or private mediation by January 12, 2024.
- f. Pre-Trial Conference. The parties request a pre-trial conference prior to trial and such conference shall be held as set forth in the Scheduling Order in this civil action.
- g. Trial. The parties anticipate a four-day jury trial beginning on the date established by the Scheduling Order entered in this civil action.

Respectfully Submitted,

**BAKER DONELSON BEARMAN
CALDWELL & BERKOWITZ, P.C.**

s/ Bruce McMullen

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Attorneys for Plaintiff Monterrious Harris

CERTIFICATE OF SERVICE

The undersigned certifies that on April 26, 2023, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, and that upon filing, such system will serve a copy of the foregoing upon each party registered on the CM/ECF system in this action.

s/ Bruce McMullen

Bruce McMullen